

TITLE 17. TRANSPORTATION**CHAPTER 1. DEPARTMENT OF TRANSPORTATION
ADMINISTRATION****ARTICLE 1. GENERAL PROVISIONS**

Article 1, consisting of Section R17-1-101 and Table A, recodified from 17 A.A.C. 4 at 7 A.A.R. 919, effective January 24, 2001 (Supp. 01-1).

Section

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ARTICLE 1. GENERAL PROVISIONS**R17-1-101. Recodified****Historical Note**

New Section recodified from R17-4-710 at 7 A.A.R. 919, effective January 24, 2001 (Supp. 01-1). Former Section R17-1-101 recodified to R17-1-102 at 7 A.A.R. 3476, effective July 20, 2001 (Supp. 01-3).

Table A. Recodified**Historical Note**

New Table recodified from 17 A.A.C. 4, Article 7 at 7 A.A.R. 919, effective January 24, 2001 (Supp. 01-1). Former Table A recodified to R17-1-102, Table A, at 7 A.A.R. 3476, effective July 20, 2001 (Supp. 01-3).

R17-1-102. Licensing Time-frames

- A.** Time-frames. The time-frames listed in Tables A and B apply to licenses issued by the Department.
1. "Department" means the Arizona Department of Transportation.
 2. "License" has the meaning prescribed in A.R.S. § 41-1001(10).
 3. "Administrative completeness review time-frame" has the meaning prescribed in A.R.S. § 41-1072(1).
 4. "Overall time-frame" has the meaning prescribed in A.R.S. § 41-1072(2).
 5. "Substantive review time-frame" has the meaning prescribed in A.R.S. § 41-1072(3).
- B.** Administrative completeness review – notice of deficiency. Within the time-frame for the administrative completeness review listed in Tables A and B, the Department shall notify the applicant in writing that the application is complete or incomplete. If the application is incomplete, the Department shall issue a notice of deficiency to the applicant specifying the information required to make the application administratively complete.
1. The notice of deficiency shall list all missing information.
 2. A notice of deficiency issued by the Department within the administrative completeness review time-frame suspends the administrative completeness review time-frame and the overall time-frame, from the date the Department issues the notice of deficiency until the date that the Department receives all missing information from the applicant.
- C.** Denial during administrative completeness review.
1. If the applicant does not withdraw the application and does not respond, within 60 days after the date on a notice of deficiency issued under subsection (B), to each item listed in the notice of deficiency, the Department shall treat the application as withdrawn. The Department shall not issue a written notice of denial.
 2. The applicant may withdraw the application during the 60-day response period. If the applicant withdraws the application, the Department shall not issue a written notice of denial. If the applicant wishes to obtain a license after withdrawal of the application, an applicant shall submit a new application.
 3. The Department may issue a written notice of denial to an applicant before finding administrative completeness if

the information provided by the applicant demonstrates that the applicant is not eligible for a license under the relevant statute or rules.

4. The notice of denial shall provide a justification for the denial and an explanation of the applicant's right to a hearing or appeal.
- D.** Substantive review – additional information. Within the time-frame for the substantive review listed in Tables A and B, the Department may issue a comprehensive request for additional information, or by mutual agreement with the applicant, issue a supplemental request for additional information.
1. Any request for additional information shall list all items of information required.
 2. Any request for additional information issued by the Department within the substantive review time-frame suspends the substantive review time-frame and overall time-frame, from the date the Department issues the request until the date that the Department receives all the required additional information from the applicant.
- E.** Denial during substantive review. The following provisions apply:
1. If the applicant does not withdraw the application and does not respond, within 60 days after the date on a request for additional information under subsection (D), to each item required by the request, the Department shall treat the application as withdrawn. The Department shall not issue a written notice of denial.
 2. The applicant may withdraw the application during the 60-day response period. If the applicant withdraws the application, the Department shall not issue a written notice of denial. If the applicant wishes to obtain a license after withdrawal of an application, an applicant shall submit a new application.
 3. The notice of denial shall provide a justification for the denial and an explanation of the applicant's right to a hearing or appeal.
- F.** Notification after substantive review. Upon completion of the substantive review, the Department shall notify the applicant in writing that the license is granted or denied within the overall time-frames listed in Tables A and B. The notice of denial shall provide a justification for the denial and an explanation of the applicant's right to a hearing or appeal.
- G.** Applicant response period. In computing the applicant's response periods prescribed in this Section, the last day of a response period is counted. If the last day is a Saturday, Sunday, or legal holiday, the applicant's response period runs until the end of the next day that is not a Saturday, Sunday, or legal holiday.
- H.** Effective date. This Section applies to applications filed with the Department on or after the effective date of this Section.

Historical Note

New Section R17-1-102 recodified from R17-1-101 by final rulemaking at 7 A.A.R. 3476, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 7 A.A.R. 4347, effective September 9, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 923, effective February 11, 2002 (Supp. 02-1).

Department of Transportation – Administration

Table A. Motor Vehicle Division

LICENSE	STATUTORY AUTHORITY	ADMINISTRATIVE COMPLETENESS REVIEW TIME-FRAME	SUBSTANTIVE REVIEW TIME-FRAME	OVERALL TIME-FRAME
Fleet registration	A.R.S. §§ 28-2201 to 28-2208	60 days	30 days	90 days
International proportional registration	A.R.S. §§ 28-2231 to 28-2239	20 days	10 days	30 days
Alternative proportional registration	A.R.S. § 28-2261 to 28-2269	60 days	30 days	90 days
Personalized special plates	A.R.S. § 28-2406	5 days	30 days	35 days
Traffic survival school or traffic survival school instructor license	A.R.S. §§ 28-3306 to 28-3307	5 days	35 days	40 days
Driver license issued after suspension, revocation or disqualification	A.R.S. § 28-3315	5 days	30 days	35 days
Automotive recycler, broker, motor vehicle dealer or wholesale motor vehicle dealer license	A.R.S. §§ 28-4301 to 28-4366	8 days	117 days	125 days
Manufacturer, distributor, factory branch, or distributor branch license	A.R.S. §§ 28-4301 to 28-4366	6 days	14 days	20 days
Permit to exhibit or display and sell vehicles off dealer's premises	A.R.S. § 28-4401	6 days	9 days	15 days
Permit to exhibit recreational vehicles at public event	A.R.S. § 28-4402	6 days	9 days	15 days
Authorization to use dealer license plates	A.R.S. § 28-4533	7 days	38 days	45 days
Authorization to dispose of junk vehicle	A.R.S. § 28-4882	5 days	45 days	50 days
License to operate as a title service company	A.R.S. § 28-5003	6 days	14 days	20 days
Third-party authorization to perform certain title and registration, motor carrier licensing and tax reporting, dealer licensing, and driver license functions*	A.R.S. §§ 28-5101 to 28-5110	5 days	90 days	95 days
Third-party authorization to issue over-weight and over-dimensional permits*	A.R.S. §§ 28-1145 and 28-5101 to 28-5110	5 days	90 days	95 days
Certification of an authorized third party, or the authorized third party's employee or agent, to perform the authorized functions	A.R.S. §§ 28-5101 to 28-5110	5 days	60 days	65 days
Professional driver training school or professional driver training school instructor license	A.R.S. §§ 32-2351 to 32-2393	5 days	35 days	40 days
* The Division shall have the right to determine when an authorized third party may begin to transact business after a license has been granted.				

Historical Note

New Table A recodified from R17-1-101, Table A, by final rulemaking at 7 A.A.R. 3476, effective July 20, 2001 (Supp. 01-3).
Amended by final rulemaking at 7 A.A.R. 4347, effective September 9, 2001 (Supp. 01-3).

Table B. Intermodal Transportation Division

LICENSE	STATUTORY AUTHORITY	ADMINISTRATIVE COMPLETENESS REVIEW TIME-FRAME	SUBSTANTIVE REVIEW TIME-FRAME	OVERALL TIME-FRAME
Outdoor advertising permit	A.R.S. §§ 28-7901 to 28-7909	30 days	30 days	60 days
Encroachment permit	A.R.S. §§ 28-7053(A), 7053(D), 7045(2)	30 days	120 days	150 days
Junkyard screening license	A.R.S. §§ 28-7941 to 28-7943	30 days	60 days	90 days

Historical Note

New Table B made by final rulemaking at 7 A.A.R. 4347, effective September 9, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 923, effective February 11, 2002 (Supp. 02-1).

R17-1-103. Petition for Department Rulemaking or Review

A. A person may petition the Department under A.R.S. § 41-1033(A) for a:

1. Rulemaking action relating to a Department rule, including making a new rule or amending or repealing an existing rule; or
2. Review of an existing Department practice or substantive policy statement alleged to constitute a rule.

B. To act under A.R.S. § 41-1033(A) and this Section, a person shall submit to the Department Director a written petition that includes the following information:

1. Name, address, telephone number, and facsimile number, if any, of the person submitting the petition;
2. If the person submitting the petition is a representative of another person, the name of each person represented;
3. If requesting a rulemaking action:
 - a. A statement of the rulemaking action sought, including the A.A.C. citation for each existing rule involved, and the specific language of each new rule or rule amendment; and
 - b. Reasons for the rulemaking action, including an explanation of why an existing rule is inadequate, unreasonable, unduly burdensome, or unlawful.
4. If requesting a review of an existing practice or substantive policy statement:
 - a. The subject matter of the existing practice or substantive policy statement, and
 - b. Reasons why the existing practice or substantive policy statement constitutes a rule.
5. The dated signature of the person submitting the petition.

C. A person may submit supporting information with a petition, including:

1. Statistical data; and
2. A list of other persons likely to be affected by the rulemaking action or the review, with an explanation of the likely effects.

D. The Department Director or the director's authorized representative shall send the person submitting a petition a written response within 60 calendar days of the date the Department receives the petition.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5437, effective November 14, 2001 (Supp. 01-4).

R17-1-104. Rulemaking Oral Proceeding

A. Public request for an oral proceeding. A person may request an oral proceeding as prescribed under A.R.S. § 41-1023(C) by

submitting the following information in writing to the agency official identified in a proposed rule's preamble:

1. Identify the specific proposed rule for oral proceeding by Section number and title heading; and
2. Provide the following requestor information:
 - a. Name;
 - b. Address;
 - c. Telephone number during regular state business hours as prescribed under A.R.S. § 38-401; and
 - d. Optional information, if applicable:
 - i. The requestor's occupational title; and
 - ii. The name of the entity the requestor represents.

B. Oral proceeding protocol.

1. The Department shall record an oral proceeding electronically or stenographically, and shall make any audio or video cassette, transcript, register, and written comment received part of the Department's rulemaking record as required under A.R.S. § 41-1029(B)(4) and (5).
2. The Department's presiding official shall use the following guidelines to conduct an oral proceeding:
 - a. Registration of attendees. Attendee registration is voluntary;
 - b. Registration of persons intending to speak. A person wishing to speak shall provide the person's name, representative capacity, if applicable, a brief statement of the person's position regarding the proposed rule, and approximate length of time the person wishes to speak;
 - c. Opening of the record. The Department's presiding official shall identify:
 - i. The rule to be considered;
 - ii. The location;
 - iii. The date;
 - iv. The time of day;
 - v. The purpose of the proceeding including applicable background information or Department representative's opening statement on the proposed rule; and
 - vi. Any applicable time limitation of the meeting location's use or electronic communication linkage.
 - d. A public oral comment period. Any person may speak at an oral proceeding. A person who speaks shall ensure that all comments address the rule being considered. The Department's presiding official may limit the time allotted to each speaker and preclude undue repetition;
 - e. A recess provision. If an oral proceeding must recess because of a time limitation indicated in subsection

- (B)(2)(c)(vi), the Department's presiding official shall ensure that the oral proceeding's continuation complies with the meeting notice provision prescribed under A.R.S. § 38-431.02(E);
- f. Closing remarks. Before closing an oral proceeding record, the Department's presiding official shall announce:
- The location and last day for submitting written comments about the rule; and
 - Any known future rulemaking steps the Department intends to take regarding the rule after the rulemaking public record closes.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 4920, effective January 5, 2003 (Supp. 02-4).

ARTICLE 2. FEES

R17-1-201. Definitions

- A. The following definitions apply to R17-1-202 made by exempt rulemaking as prescribed under A.R.S. § 41-1005(A)(5):
- "Batch" means a query-command method that initiates simultaneous production of an electronic file or series of requests that may have delayed results.
 - "Certified record" means a copy of a document designated as a true copy by the agency officer entrusted with custody of the original to be used for purposes prescribed under A.R.S. § 28-442.
 - "Interactive" means an electronic query-command method individually initiated by a person that produces immediate results.
 - "Support document" means any customer record maintained by the agency in a file storage format as follows:
 - Electronic;
 - Hardcopy; or
 - Microfilm.
- B. The following definitions apply to Sections in this Article made by regular rulemaking:
There are no definitions in this subsection.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 2963, effective June 27, 2002 (Supp. 02-2).

R17-1-202. MVD Record Copy Charges

- A. For each separate request, Motor Vehicle Division shall assess a charge for a copied record according to the following schedule:

Description	Amount
A certified record as prescribed under A.R.S. § 28-446(D): Over-the-counter immediate and overnight service; Electronic batch; Mail-in request; Driver license photograph; Support document; or Electronic interactive.	\$5

A non-certified record as prescribed under A.R.S. § 28-446(A): Over-the-counter immediate service; Mail-in request; Electronic batch; Driver license photograph; Support document; Electronic interactive; Record search; or "No record found".	\$3
A non-certified record as prescribed under A.R.S. § 28-446(A): Electronic batch; or Over-the-counter overnight service.	\$2

- B. The Division shall assess the cost for civil subpoena support documentation as prescribed under A.R.S. § 12-351(F).
- C. The Division shall charge 25¢ per page for any item photocopied.

Historical Note

New Section recodified from R17-4-702 at 7 A.A.R. 3477, effective July 20, 2001 (Supp. 01-3). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 2963, effective June 27, 2002 (Supp. 02-2).

R17-1-203. Returned Check Service Charge; Penalty

- A. Service charge assessment.
- The Department shall assess a service charge for each check, draft, or order returned because of:
 - Insufficient monies, such as:
 - Check amount less than minimum,
 - Check drawn against uncollected funds,
 - Credit limit exceeded,
 - Post-dated,
 - Stale-dated, or
 - Uncollected funds;
 - Stop payment, such as refer to maker; or
 - Closed account, such as unable to locate account.
 - A service charge under this subsection includes:
 - A \$25 returned check, draft, or order service charge, and
 - Any applicable financial institution charge prescribed under A.R.S. § 44-6852.
- B. Remedial remittance.
- The Department shall require that payment of a service charge for a returned check, draft, or order be made by:
 - Cash, or
 - Other certified means.
 - A remittance under this subsection includes:
 - The original remittance amount, and
 - Any charge assessed under subsection (A)(2).
- C. Penalty.
- A person who does not make remittance under subsection (B) on or before the vehicle's registration expiration date is subject to a late title and registration penalty as prescribed under A.R.S. § 28-2162.
 - A person who does not make remittance under subsection (B) within 45 days after the date of the Department's written notice of a returned check, draft, or order, is subject to the following actions on the person's license, permit, or registration that was insufficiently funded:
 - For a driver license or permit, as prescribed under A.R.S. § 28-3301(A);

- b. For a nonoperating identification license, as prescribed under A.R.S. § 28-3301(F); or
- c. For a vehicle registration, as prescribed under A.R.S. § 28-2161(A)(2).

Historical Note

New Section recodified from R17-4-707 at 7 A.A.R. 3477, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 9 A.A.R. 3822, effective October 4, 2003 (Supp. 03-3).

R17-1-204. MVD Postage Fund; Registration by Mail Charges

- A. For purposes of A.R.S. § 28-2151, the Division establishes a registration by mail postage fund.
- B. The Division shall charge a registration by mail applicant current applicable U.S. Postal Service postage rates for mailing:
 - 1. A registration by mail renewal notice,
 - 2. A license plate, or
 - 3. A registration tab.

Historical Note

New Section recodified from R17-4-703 at 7 A.A.R. 3477, effective July 20, 2001 (Supp. 01-3).

R17-1-205. Abandoned Vehicle Report Processing Fee

- A. For purposes of A.R.S. § 28-4802(D)(4), the Division establishes the following fees for processing an abandoned vehicle report:
 - 1. When submitted electronically, via the Divisions's authorized third-party electronic service provider, the fee is eight dollars.
 - 2. When the report is submitted for processing by any other means, the fee is ten dollars.
- B. The fee for processing the abandoned vehicle report is non-refundable unless provided for under A.R.S. § 28-373.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 3746, effective September 30, 2003 (Supp. 03-3).

ARTICLE 3. TAXES**R17-1-301. Renumbered****Historical Note**

Renumbered from R17-4-301 (Supp. 92-4).

R17-1-302. Repealed**Historical Note**

Adopted effective August 1, 1988 (Supp. 88-3). Renumbered from R17-4-302 (Supp. 92-4). Section repealed by final rulemaking at 8 A.A.R. 563, effective January 15, 2002 (Supp. 02-1).

R17-1-303. Renumbered**Historical Note**

Renumbered from R17-4-303 (Supp. 92-4).

R17-1-304. Renumbered**Historical Note**

Renumbered from R17-4-304 (Supp. 92-4).

R17-1-305. Renumbered**Historical Note**

Renumbered from R17-4-305 (Supp. 92-4).

R17-1-306. Motor vehicle fuel - distributor reports

- A. That all distributors of motor vehicle fuel shall, in addition to the information now required of them as such, furnish to the

Motor Vehicle Division of the Arizona Highway Department at the time of making their regular monthly report to the said Motor Vehicle Division, the following information:

- 1. Motor vehicle fuel on hand at first of month.
- 2. Motor vehicle fuel acquired during month (sources itemized).
- 3. Total sales during month.
- 4. Total taxable sales during month.
- 5. Sales to United States Government during month.
- 6. Export sales during month (sources itemized).
- 7. Motor vehicle fuel on hand end of month.

- B. That sale of motor vehicle fuel to the Federal Government during the month must be supported by affidavit in the case of charge sales, and by submittal of U.S. Form 44 in the case of sales other than charge sales.

- C. That the form on which the information hereby required is furnished and the form of affidavit to be used in supporting charge sales to the United States Government shall be prescribed by the Motor Vehicle Superintendent, and shall be furnished by him.

Historical Note

Former Rule, General Order 14. Former Section R17-4-05 renumbered without change as Section R17-4-306 (Supp. 87-2). Renumbered from R17-4-306 (Supp. 92-4).

R17-1-307. Repealed**Historical Note**

Former Rule, General Order 5. Former Section R17-4-03 renumbered without change as Section R17-4-307 (Supp. 87-2). Renumbered from R17-4-307 (Supp. 92-4). Section repealed by final rulemaking at 8 A.A.R. 563, effective January 15, 2002 (Supp. 02-1).

R17-1-308. Motor vehicle fuel - distributor exports

Each distributor shall, upon forms furnished by the Motor Vehicle Division and designated as "Motor Vehicle Fuel Export Declaration," declare the number of gallons of motor vehicle fuel being exported by him. Such forms shall be made in triplicate and shall show the number of gallons of motor vehicle fuel exported by the distributor, the capacity of the container in which such fuel is exported, the actual content of such container, the number of gallons of such fuel found in the container on return of said distributor to the state of Arizona, the net number of gallons exported by such distributor, the invoice number and amount of gallons of motor vehicle fuel sold or disposed of by such distributor in the foreign state or country to which such fuel was exported, and shall be signed by the operator of the equipment in which such motor vehicle fuel is exported and a member of the Arizona State Highway Patrol, and indicate the date and the hour of export and date and hour of the return of said distributor to the state of Arizona. The original and triplicate copy of such forms shall be retained by the operator and the duplicate to be surrendered to a member of the Arizona State Highway Patrol or an agent of the Motor Vehicle Division, and when a distributor makes a claim for refund based on motor vehicle fuel exported, the original of said "Motor Vehicle Fuel Export Declaration," properly dated, signed and executed, shall accompany such claim.

Historical Note

Former Rule, General Order 20. Former Section R17-4-06 renumbered without change as Section R17-4-308 (Supp. 87-2). Renumbered from R17-4-308 (Supp. 92-4).

R17-1-309. Motor vehicle fuel - distributor reports of sales by counties

- A. Each county in the state of Arizona participates in motor vehicle fuel taxes in the proportion that sales in such county bear to the total sales throughout the state.
- B. The statutes require that the county in which a sale is completed by a distributor (county in which delivery is made, irrespective of the source of supply) shall be credited with the sale.
- C. It is essential that the accounting office of the distributor and the Motor Vehicle Division shall definitely know the county in which a delivery is made by a distributor.
- D. On and after November 1, 1936, each distributor's invoice and duplicates covering a sale of motor vehicle fuel in this state shall designate the name of the county in which such fuel is delivered by the distributor. Such designation shall be made at the time the invoice is prepared by writing or stamping the name of the county in a conspicuous place on the invoice and duplicates, preferably following the name or address of the purchaser.

Historical Note

Former Rule, General Order 31. Former Section R17-4-11 renumbered without change as Section R17-4-309 (Supp. 87-2). Renumbered from R17-4-309 (Supp. 92-4).

R17-1-310. Repealed**Historical Note**

Former Rule, General Order 25. Former Section R17-4-09 renumbered without change as Section R17-4-310 (Supp. 87-2). Renumbered from R17-4-310 (Supp. 92-4). Section repealed by final rulemaking at 8 A.A.R. 563, effective January 15, 2002 (Supp. 02-1).

R17-1-311. Repealed**Historical Note**

Former Rule, General Order 24. Former Section R17-4-08 renumbered without change as Section R17-4-311 (Supp. 87-2). Renumbered from R17-4-311 (Supp. 92-4). Section repealed by final rulemaking at 8 A.A.R. 563, effective January 15, 2002 (Supp. 02-1).

R17-1-312. Repealed**Historical Note**

Former Rule, General Order 39. Former Section R17-4-13 renumbered without change as Section R17-4-312 (Supp. 87-2). Renumbered from R17-4-312 (Supp. 92-4). Section repealed by final rulemaking at 8 A.A.R. 563, effective January 15, 2002 (Supp. 02-1).

R17-1-313. Repealed**Historical Note**

Former Rule, General Order 27. Former Section R17-4-10 renumbered without change as Section R17-4-313 (Supp. 87-2). Renumbered from R17-4-313 (Supp. 92-4). Section repealed by final rulemaking at 8 A.A.R. 563, effective January 15, 2002 (Supp. 02-1).

R17-1-314. Repealed**Historical Note**

Former Rule, General Order 69. Former Section R17-4-27 renumbered without change as Section R17-4-314 (Supp. 87-2). Renumbered from R17-4-314 (Supp. 92-4). Section repealed by final rulemaking at 8 A.A.R. 563, effective January 15, 2002 (Supp. 02-1).

R17-1-315. Repealed**Historical Note**

Former Rule, General Order 61. Former Section R17-4-23 renumbered without change as Section R17-4-315 (Supp. 87-2). Renumbered from R17-4-315 (Supp. 92-4). Section repealed by final rulemaking at 8 A.A.R. 563, effective January 15, 2002 (Supp. 02-1).

R17-1-316. Motor vehicle fuel - pipeline imports

- A. Imports of motor vehicle fuel via pipeline carriers: Authorization of report forms: and definition of "barrel,"

- 1. A.R.S. § 28-1503 reads as follows:

- a. On or before the twenty-fifth day of each month, every distributor shall file with the superintendent, on forms prescribed and furnished by the superintendent, a true and verified statement showing the total number of gallons of motor vehicle fuel refined, manufactured, produced, blended, compounded, imported or acquired during the preceding calendar month, the number of gallons of motor vehicle sold or otherwise disposed of by him for use in each of the several counties of this state and other and further data or information the superintendent requires.
- b. Every distributor shall, in addition to making the report required in subsection (a) of this Section, upon receipt of any interstate shipment of motor vehicle fuel, forthwith report to the superintendent, on forms prescribed and furnished by the superintendent, the quantity and particular description of the fuel received, the name of the consignor, the date shipped, the date received, how shipped and other information in respect thereto the superintendent requires.

- 2. To carry out the provisions of A.R.S. § 28-1503(B), it is ordered that a copy of the pipeline carrier's delivery ticket, as approved by the vehicle superintendent, is designated as the consignee report to be used by distributors receiving shipments of motor vehicle fuel via pipeline carrier.

- B. A.R.S. § 28-1515 reads, in part:

- 1. Every railroad company, street, suburban or interurban railroad company, pipeline company, common carrier and person transporting motor vehicle fuel by whatever manner to points in this state from any point without this state, shall report to the vehicle superintendent on forms prescribed by the superintendent, all deliveries of motor vehicle fuel so transported.
- 2. The report shall:
 - a. Cover monthly periods and shall be submitted monthly within twenty-five days after the close of the month covered by the report.
 - b. Show the name and address of the person to whom the deliveries of motor vehicle fuel have in fact been made, or the name and address of the originally named consignee if the fuel has been delivered to other than the originally named consignee.
 - c. Show the point of origin, the point of delivery and the date of delivery.

- C. To carry out the provisions of A.R.S. § 28-1515(A) and (B), it is ordered that a summary report of all shipments handled by the pipeline carrier, containing the information required in said Section, is authorized as the carrier's report.

- D. It is further ordered that the term "barrel," as used in connection with the shipment of motor vehicle fuel via pipeline, shall mean a quantity equivalent to 42 U.S. gallons.

- E. It is further ordered that motor vehicle fuel shall be deemed “possessed” and/or “imported” under A.R.S. §§ 28-1501, 28-1503 and 28-1515 when delivered by the pipeline carrier into the terminal storage facilities of the distributor in Arizona.

Historical Note

Former Rule, General Order 57. Former Section R17-4-20 renumbered without change as Section R17-4-316 (Supp. 87-2). Renumbered from R17-4-316 (Supp. 92-4).

R17-1-317. Motor vehicle fuel - importation reports

- A. Section 1686, Revised Code of the state of Arizona, as amended, defines motor vehicle fuel as follows: “Motor vehicle fuel shall mean and include any inflammable liquid, by whatsoever name such liquid may be known or sold, which is used or usable in motor vehicles, either alone or when mixed, blended or compounded, for the propulsion thereof upon the public highways . . .”
- B. Certain liquid petroleum products having an A.P.I. gravity greater than 24 at 60° F, such as diesel oil, stove oil, etc., not now classed as motor vehicle fuel, are being used to propel motor vehicles over the highways of this state and for mixing, blending or compounding motor vehicle fuel.
- C. Each person who delivers such products into the fuel tanks of motor vehicles, or who uses such products in mixing, blending or compounding motor vehicle fuels, is required to pay to the state of Arizona the five-cent-per-gallon motor vehicle fuel tax on such fuel so used.
- D. It is necessary that the Vehicle Superintendent know the sources of supply in this state of such products when used as motor vehicle fuel in order to ascertain that the tax has been paid to the state.
- E. Each distributor and each person shall, upon receipt of any interstate shipment of liquid petroleum products having an A.P.I. gravity greater than 24 at 60° F, which might be classed as motor vehicle fuel, immediately report the receipt of such shipment to the Vehicle Superintendent in the manner prescribed in sections 1673c and 1674c, R.C.A., as amended by Chapter 70, Legislature of 1935, regular session, for immediately reporting receipt of interstate shipments of motor vehicle fuel.
- F. Each person transporting such products from a point without this state to a point within this state by means of any vehicle operated over the highways of this state shall immediately report such shipment to the Vehicle Superintendent in the manner prescribed in Section 1675, R.C.A., as amended by Chapter 70, Legislature of 1935, regular session, for immediately reporting such shipments of motor vehicle fuel.
- G. Every railroad company transporting such products from a point without this state to a point within this state shall report such shipment to the Vehicle Superintendent on or before the 25th of the next succeeding month, in the manner as shipments of motor vehicle fuel are reported.
- H. Forms 70-3307 “Motor Vehicle Fuel Shipments to Arizona” shall be used for the above mentioned reports in the same manner as prescribed for their use in reporting shipments of motor vehicle fuel.
- I. Penalties prescribed by the statutes for noncompliance with respect to reporting shipments of motor vehicle fuel shall likewise apply for noncompliance with respect to reporting shipments of liquid petroleum products as above mentioned.

Historical Note

Former Rule, General Order 36. Former Section R17-4-12 renumbered without change as Section R17-4-317 (Supp. 87-2). Renumbered from R17-4-317 (Supp. 92-4).

R17-1-318. Motor vehicle fuel - government employee

- A. Motor vehicle fuel sold to employees or agents of the United States, or of any department thereof, for the current use of such employees, is subject to the motor vehicle fuel tax.
- B. Such employee or agent may obtain refund of the motor vehicle fuel tax paid upon specific motor vehicle fuel on claim for refund thereof upon affidavit Form No. 70-3316, to which shall be attached satisfactory written proof that the cost of the specific motor vehicle fuel less motor vehicle fuel tax thereon has been refunded to such employee or agent by the United States or department thereof.
- C. Motor vehicle fuel delivered to the United States or department thereof, or an employee or agent of the United States or department thereof, upon a credit account chargeable to the United States or department thereof, the payment for which has been assumed by the United States or department thereof, is exempt from motor vehicle fuel tax, and in respect thereto the Motor Vehicle Division will accept in lieu of the motor vehicle fuel tax thereon, the sworn statement of the distributor through whom the transaction was handled, showing as to each such delivery as to which exemption is claimed.
1. Date and place of delivery.
 2. Name of distributor or retailer and agent thereof, if any, making the delivery.
 3. Identification number of credit card, contract or requisition authorizing purchase.
 4. Name of person to whom delivery was made.
 5. Registry number of motor vehicle in respect to which delivery was made.
 6. Authority of the United States guaranteeing the account.
 7. The number of gallons of motor vehicle fuel delivered.

Historical Note

Former Rule, General Order 7. Former Section R17-4-04 renumbered without change as Section R17-4-318 (Supp. 87-2). Renumbered from R17-4-318 (Supp. 92-4).

R17-1-319. Motor vehicle fuel tax - military sales to personnel

- A. Section 10 of the amendment to the Federal Aid Highway Act, approved June 16, 1936, provides:
- “1. That all taxes levied by any state, territory, or the District of Columbia upon sales of gasoline and other motor vehicle fuels may be levied, in the same manner and to the same extent, upon such fuels when sold by or through post exchanges, ship stores, ship service stores, commissaries, filling stations, licensed traders, and other similar agencies, located on United States military or other reservations, when such fuels are not for the exclusive use of the United States. Such taxes, so levied, shall be paid to the proper taxing authorities of the state, territory, or the District of Columbia, within whose borders the reservation affected may be located.
- “2. The officer in charge of such reservation shall, on or before the fifteenth day of each month, submit a written statement to the proper taxing authorities of the state, territory, or the District of Columbia within whose borders the reservation is located, showing the amount of such motor fuel not sold for the exclusive use of the United States during the preceding month.”
- B. The Attorney General of Arizona has interpreted the term “exclusive use” to mean that the fuel must be used wholly by the United States by duly constituted agents or officers engaged, while using such gasoline, wholly in the service of the government. In other words, if the fuel is used on a mission partly for the government and partly for some personal purpose of the user, it is not in the exclusive use of the govern-

ment and is, therefore, taxable. The mere fact that the gasoline is sold or distributed by an agency located on the reservation does not exempt such gasoline from taxation. An officer of the government buying gasoline for his own personal use -- or partly for his own personal use -- pays the same tax as does the individual citizen.

- C. All persons who purchase gasoline for use in motor vehicles on the highways of this state from any federal government storage located in the state of Arizona which gasoline is not for the exclusive use of the United States Government shall pay to the Officer in Charge of such storage, the Arizona five-cent-per-gallon license tax on each gallon so purchased.
- D. Under provisions of Section 10 above, the Officer in Charge of such storage will on or before the 15th day of the month next succeeding the month in which such fuel was purchased, submit a written statement through proper channels to the Motor Vehicle Division, Arizona Department of Transportation, Phoenix, Arizona, showing the amount of such motor vehicle fuel so sold and such report shall be accompanied by a remittance of five cent per gallon to cover the Arizona license tax on such fuel.

Historical Note

Former Rule, General Order 44. Former Section R17-4-14 renumbered without change as Section R17-4-319 (Supp. 87-2). Renumbered from R17-4-319 (Supp. 92-4).

R17-1-320. Repealed

Historical Note

Former Rule, General Order 54 (Amended). Former Section R17-4-18 renumbered without change as Section R17-4-320 (Supp. 87-2). Renumbered from R17-4-320 (Supp. 92-4). Section repealed by final rulemaking at 8 A.A.R. 563, effective January 15, 2002 (Supp. 02-1).

R17-1-321. Repealed

Historical Note

Former Rule, General Order 21. Former Section R17-4-07 renumbered without change as Section R17-4-321 (Supp. 87-2). Renumbered from R17-4-321 (Supp. 92-4). Section repealed by final rulemaking at 8 A.A.R. 563, effective January 15, 2002 (Supp. 02-1).

R17-1-322. Motor vehicle tax refunds

- A. Application for refund of motor vehicle fuel tax paid upon motor vehicle fuel used in the state of Arizona other than in motor vehicles upon highways of the state of Arizona will not be received nor refund made unless the applicant therefor file in the office of the Motor Vehicle Division at Phoenix, Arizona.
 - 1. Duly verified list of equipment owned or operated by the applicant in which such motor vehicle fuel was used showing in case of rolling equipment, make, engine number and horse power, and in case of stationary equipment, number and horse power of engines and quantity and kind of lamps, stoves or other equipment used.
 - 2. Duly verified affidavit specifying equipment owned or operated by the applicant in which such motor vehicle fuel was used showing, in case of rolling equipment, make, engine number, horse power, hours operated, gallonage consumed of gasoline, distillate, aviation gasoline or other motor vehicle fuel as the case may be, and in case of stationary equipment, make, number, and horse power of engines, quantity and kind of lamps, stoves or other equipment used, number of hours operated, gallonage consumed of gasoline, distillate, aviation gasoline or other motor vehicle fuel consumed.
- a. The original invoices covering the purchase of such motor vehicle fuel shall be attached to said affidavit.
- b. Said affidavit shall state further that said original invoices cover the purchase of the gallonage listed and that none of the motor vehicle fuel in respect to which such affidavit is made, has been used to propel motor vehicles upon the highways, and shall show for what general purpose such motor vehicle fuel was used.
- B. The list of equipment above provided to be filed shall remain of record, in the name of the person filing the same, who must report under oath additional equipment when and as acquired or operated.
- C. No refund of tax paid on motor vehicle fuel shall be made other than on equipment listed with the Motor Vehicle Division, as provided in this order.
- D. The lists of equipment and affidavits herein provided for shall be upon forms provided by the Motor Vehicle Division.

Historical Note

Former Rule, General Order 3. Former Section R17-4-02 renumbered without change as Section R17-4-322 (Supp. 87-2). Renumbered from R17-4-322 (Supp. 92-4).

R17-1-323. Exported motor vehicle fuel - tax refund

- A. Application for refund of motor vehicle fuel tax upon motor vehicle fuel exported from the state of Arizona will not be received nor refund made unless the applicant therefore files in the office of the Motor Vehicle Division at Phoenix, Arizona, Exportation Affidavit Form No. 70-0761, duly verified, stating:
 - 1. Gallonage claimed.
 - 2. That none of said gallonage was used in Arizona.
 - 3. The county from which exported.
 - 4. Place of export consignment.
- B. There shall be attached to said Exportation Affidavit, Original Invoices covering purchase of the gallonage claimed, Motor Vehicle Fuel Exportation Certificate, Form No. 70-0763, and, in case of export to the Republic of Mexico, Export Declaration, United States Customs Service Form No. 7525.
- C. The Motor Vehicle Fuel Exportation Certificate shall be signed by the applicant or his agent, and shall state:
 - 1. Number of said original invoice. (There must be a Motor Vehicle Fuel Exportation Certificate for each original invoice).
 - 2. Place of sale in Arizona.
 - 3. Date of sale.
 - 4. Name of distributor or vendor.
 - 5. Name and address of foreign purchaser and place where the fuel is to be used.
 - 6. The gallonage.
 - 7. That the gallonage was exported from the state of Arizona and is exempt from Arizona Motor Vehicle Fuel Tax.
- D. If the exportation is to another state of the United States, the Motor Vehicle Fuel Exportation Certificate shall also be signed by the foreign consignee and shall state the name of the town in the foreign state nearest the boundary line.
- E. The Export Declaration shall be issued and signed by the Distributor or Vendor in triplicate, and, in addition to the requirements of the United States Customs Service, shall state:
 - 1. Number of said original invoice. (Export Declarations must be so issued for each original invoice).
 - 2. The gallonage.
 - 3. Type and number of containers of fuel covered by the original invoice.

- F.** Said Exportation Affidavit and Motor Vehicle Fuel Exportation Certificates shall be upon forms supplied by the Motor Vehicle Division.
- G.** Exemption by distributors of motor vehicle fuel tax on fuel for foreign export is discontinued, and hereafter Motor Vehicle Fuel Exportation Certificate Form No. 131 will not be accepted from distributors in lieu of tax, and Distributors will be held for tax on all motor vehicle fuel, except upon sales to U.S. Government.

Historical Note

Former Rule, General Order 2A. Former Section R17-4-01 renumbered without change as Section R17-4-323 (Supp. 87-2). Renumbered from R17-4-323 (Supp. 92-4).

R17-1-324. Renumbered**Historical Note**

Renumbered from R17-4-324 (Supp. 92-4).

R17-1-325. Renumbered**Historical Note**

Renumbered from R17-4-325 (Supp. 92-4).

R17-1-326. Renumbered**Historical Note**

Renumbered from R17-4-326 (Supp. 92-4).

R17-1-327. Renumbered**Historical Note**

Renumbered from R17-4-327 (Supp. 92-4).

R17-1-328. Renumbered**Historical Note**

Renumbered from R17-4-328 (Supp. 92-4).

R17-1-329. Renumbered**Historical Note**

Renumbered from R17-4-329 (Supp. 92-4).

R17-1-330. General requirements; collection of use fuel tax by vendor; form of invoice; approval of invoice form; disposition of invoices

- A.** Any sales of use fuel delivered into a vehicle fuel tank by a vendor on which no tax was collected will be presumed taxable to the vendor unless the vendor retains an invoice completed pursuant to the requirements of A.A.C. R17-1-330(B) showing that no tax was required to be collected on such sale.
- B.** The invoice required by A.R.S. § 28-1568 shall contain the following preprinted information:
- Consecutive invoice numbers, which numbers shall be selected and used in such a way that a particular number will be used no more than once every four years by the licensed use fuel vendor.
 - Use fuel tax license number of the vendor;
 - Name and physical address of the vendor provided, however, that when a licensed use fuel vendor maintains multiple use fuel vending locations, separate invoices are required bearing
 - The name and account number reflected on the use fuel vendor's license and
 - The city or place of such branch use fuel vending location.
 - An entry line identified as "Plus Arizona Use Fuel Tax"; or if the posted pump price includes the Arizona Use Fuel Tax, an entry line identified as "Less Arizona Use Fuel

Tax" together with the statement: "Posted pump price includes Arizona Use Fuel Tax."

5. The following information block:

2"		2 1/2"
ARIZONA USE FUEL TAX INFORMATION BLOCK		
A	VEHICLE TYPE <input type="checkbox"/> USE CLASS <input type="checkbox"/> LIGHT CLASS	
B	USE FUEL TAX YES <input type="checkbox"/> NO <input type="checkbox"/>	
C	BULK SALE <input type="checkbox"/> <hr/> Type of Container	

PLACE AN "X" IN CORRECT BOX(S)

The block shall be at least 2 inches wide and 2 1/2 inches high, and shall be in the form set forth above. Parts A and B must be completed on each vehicle fuel tank sale or delivery, and parts B and C must be completed on each sale or delivery into other than a vehicle fuel tank, except as provided for in A.A.C. R17-1-333(D).

6. The form of the invoice must be such that at least one simultaneous duplicate is prepared. The top sheet shall be marked "Original" and each succeeding sheet shall be marked "Copy."
- C.** Prior to use of the invoice forms provided for in this rule, the vendor shall submit the form, and any modifications to existing approved forms, to the Motor Vehicle Division, Arizona Department of Transportation, for approval.
- D.** Whenever a vendor of use fuel prepares an invoice as required by this rule, the original shall be given to the purchaser of the use fuel and the original will be the only document deemed as valid for tax credit to the user. At least one copy of the invoice shall be indexed by the vendor as to calendar month of sale and maintained for audit in ascending invoice number order.

Historical Note

Adopted effective March 1, 1984 (Supp. 84-1). Former Section R17-4-67 renumbered without change as Section R17-4-330 (Supp. 87-2). Renumbered from R17-4-330 (Supp. 92-4).

R17-1-331. Repealed**Historical Note**

Adopted effective March 1, 1984 (Supp. 84-1). Former Section R17-4-68 renumbered without change as Section R17-4-331 (Supp. 87-2). Renumbered from R17-4-331 (Supp. 92-4). Section repealed by final rulemaking at 8 A.A.R. 563, effective January 15, 2002 (Supp. 02-1).

R17-1-332. Repealed**Historical Note**

Adopted effective March 1, 1984 (Supp. 84-1). Former Section R17-4-69 renumbered without change as Section R17-4-332 (Supp. 87-2). Renumbered from R17-4-332

(Supp. 92-4). Section repealed by final rulemaking at 8 A.A.R. 563, effective January 15, 2002 (Supp. 02-1).

R17-1-333. Unmanned self-serve use fuel vending entity; records; tax collection; invoicing

A. Definitions:

1. "Account" means the authorization and the means to access the pumping facilities of an Unmanned Self-Serve Use Fuel Vending Entity (USSUFVE) to acquire use fuel for which the USSUFVE issues a periodic statement containing at least the purchaser's name, mailing address, date of each use fuel acquisition and the number of gallons of use fuel acquired.
2. "Tax-exempt use account" means an account created and maintained solely for the purpose of acquiring use fuel that will be consumed in a manner that is exempt from the tax imposed under the provision of A.R.S. Title 28, Chapter 9, Article 2.
3. "Unmanned self-serve use fuel vending entity" means a licensed Arizona fuel vending entity, commonly referred to as cardlock or keylock operations, where only pre-approved purchasers of use fuel have been issued cards or keys to identify the exclusive withdrawal of that particular purchaser and where no representative of the licensed vendor is on the premises to observe the withdrawal of use fuel from the vendor's storage and where volumes dispensed are measured by pump meters or by some other accurate recording device.

B. A vendor operating an unmanned self-serve use fuel vending entity must determine which self-serve purchasers are the holders of valid Arizona use fuel tax accounts, must record those tax license numbers for invoicing purposes and must maintain for audit purposes complete records on every purchaser having access to the vendor's use fuel storage.

C. A vendor operating an unmanned self-serve use fuel vending entity shall collect the Arizona use fuel tax on all sales of use fuel through that vending entity, unless the purchaser has established a tax-exempt use account in accordance with the provisions of subsection (E) of this rule.

D. A vendor operating an unmanned, self-serve, use fuel vending entity must comply with R17-1-330, R17-1-331, R17-1-332, and R17-1-334 provided, however, that in lieu of the language contained in section "A" of the "Arizona Use Fuel Information Block" referred to in R17-1-330(B)(5), either the word "cardlock," or the word "keylock," depending on the type of operation, will be preprinted therein.

E. A person who qualifies to purchase use fuel without the payment of tax to the vendor in accordance with the provisions of A.R.S. § 28-1555(C) may establish a tax-exempt use account with an unmanned self-serve use fuel vending entity. Use fuel acquired through the tax-exempt use account shall not be delivered into the fuel tank of a motor vehicle. If a person having a tax-exempt use account wants to purchase use fuel from the same unmanned self-serve use fuel vending entity for purposes which are not tax exempt, the person shall establish a separate account with the unmanned self-serve use fuel vending entity. The tax-exempt use account shall require the use of different cards, keys, or other means to access the pumps than the taxable use account. To establish the tax-exempt use account, the purchaser shall provide the unmanned self-serve use fuel vending entity with an affidavit containing the following information:

1. Legal name of purchaser.
2. Mailing address of purchaser.
3. Address of the place of business of the purchaser.
4. Telephone number of the purchaser.
5. A statement containing the following:

- a. Each utilization of this account to acquire use fuel shall constitute certification that none of the use fuel acquired through the utilization of this account will be employed to propel a motor vehicle on the highways in this state.

F. The unmanned, self-serve, use fuel vending entity shall maintain the original affidavit for a period of at least three years after the last transaction on the account.

Historical Note

Adopted effective March 1, 1984 (Supp. 84-1). Former Section R17-4-71 renumbered without change as Section R17-4-333 (Supp. 87-2). Amended effective December 30, 1987 (Supp. 87-4). Renumbered from R17-4-333 (Supp. 92-4).

R17-1-334. Repealed

Historical Note

Adopted effective March 1, 1984 (Supp. 84-1). Former Section R17-4-70 renumbered without change as Section R17-4-334 (Supp. 87-2). Renumbered from R17-4-334 (Supp. 92-4). Section repealed by final rulemaking at 8 A.A.R. 563, effective January 15, 2002 (Supp. 02-1).

R17-1-335. Repealed

Historical Note

Adopted as an emergency effective July 1, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R17-4-401 adopted as an emergency now adopted and amended as a permanent rule effective October 6, 1982 (Supp. 82-5). Amended effective November 13, 1986 (Supp. 86-6). Former Section R17-4-401 renumbered without change as Section R17-4-335 (Supp. 87-2). Renumbered from R17-4-335 (Supp. 92-4). Section repealed by final rulemaking at 8 A.A.R. 563, effective January 15, 2002 (Supp. 02-1).

R17-1-336. Repealed

Historical Note

Adopted as an emergency effective July 1, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R17-4-402 adopted as an emergency now adopted and amended as a permanent rule effective October 6, 1982 (Supp. 82-5). Amended effective November 13, 1986 (Supp. 86-6). Former Section R17-4-402 renumbered without change as Section R17-4-336 (Supp. 87-2). Renumbered from R17-4-336 (Supp. 92-4). Section repealed by final rulemaking at 8 A.A.R. 563, effective January 15, 2002 (Supp. 02-1).

R17-1-337. Repealed

Historical Note

Adopted as an emergency effective July 1, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R17-4-403 adopted as an emergency now adopted and amended as a permanent rule effective October 6, 1982 (Supp. 82-5). Amended effective November 13, 1986 (Supp. 86-6). Former Section R17-4-403 renumbered without change as Section R17-4-337 (Supp. 87-2). Renumbered from R17-4-337 (Supp. 92-4). Section repealed by final rulemaking at 8 A.A.R. 563, effective January 15, 2002 (Supp. 02-1).

R17-1-338. Renumbered

Historical Note

Renumbered from R17-4-338 (Supp. 92-4).

R17-1-339. Renumbered**Historical Note**

Renumbered from R17-4-339 (Supp. 92-4).

R17-1-340. Renumbered**Historical Note**

Renumbered from R17-4-340 (Supp. 92-4).

R17-1-341. Renumbered**Historical Note**

Renumbered from R17-4-341 (Supp. 92-4).

R17-1-342. Renumbered**Historical Note**

Renumbered from R17-4-342 (Supp. 92-4).

R17-1-343. Renumbered**Historical Note**

Renumbered from R17-4-343 (Supp. 92-4).

R17-1-344. Renumbered**Historical Note**

Renumbered from R17-4-344 (Supp. 92-4).

R17-1-345. Renumbered**Historical Note**

Renumbered from R17-4-345 (Supp. 92-4).

R17-1-346. Procedure to estimate use fuel consumption**Definitions:**

1. "Assistant Director" means the Assistant Director of the Department of Transportation for the Motor Vehicle Division.
2. "County highway mile" means one mile of highway maintained by a county for which the county does not receive full reimbursement for such maintenance from any other entity.
3. "Population" means the population as determined pursuant to the provisions of A.R.S. § 28-1598.

Historical Note

Adopted effective October 8, 1987 (Supp. 87-4). Renumbered from R17-4-346 (Supp. 92-4).

R17-1-347. Procedure to estimate percentage of consumption of use fuel in each county

- A.** The Motor Vehicle Division shall calculate the estimated percentage of use fuel consumed in a particular county for a particular month as compared to the total amount of use fuel consumed in the entire state during the same month in accordance with the following formula:

$$X = \frac{.7A + .3B + C}{2}$$

1. "X" is the percentage for a particular county of the total amount of use fuel consumed in the entire state for a month.
2. "A" is the number of county highway miles in the county divided by the total number of county highway miles in all counties within the state.
3. "B" is the total unincorporated county population in the county divided by the total unincorporated county population in all counties within the state.

4. "C" is the percent of use fuel consumed in the county that was used to distribute highway user revenue funds in June 1985.

- B.** If the formula described in subsection (A) results in a particular county having less than 1% of the use fuel consumed in the state, that county's share shall be raised to 1% and the resulting deficiency shall be prorated among the remaining counties in the same percentage as the amount of use fuel consumed.

Historical Note

Adopted effective October 8, 1987 (Supp. 87-4). Renumbered from R17-4-347 (Supp. 92-4).

R17-1-348. Requirements to provide data pertaining to county highway miles

- A.** Each year prior to April 1, the county engineer for each county in the state shall certify under oath and deliver to the Motor Vehicle Division a report containing the number of county highway miles located in his county as of the preceding December 31. The report shall contain the designation of each highway included in the number of county highway miles, the location of its termini, and the length of the highway measured on its centerline to the nearest one tenth of a mile.
- B.** The Assistant Director shall give notice in writing to any county engineer who fails to deliver the report by March 31. The notice shall state that the report has not been received and demand that it be delivered to the Motor Vehicle Division within ten days of the mailing of the notice.
- C.** If a county engineer fails to deliver the report required by subsection (A) after being given the ten-day notice provided in subsection (B), the Assistant Director shall continue to perform the calculations required by A.R.S. § 28-1598 using the county road miles reported by the delinquent county for the prior year. However, commencing with distributions made in the month following the expiration of the ten-day notice, the funds due the delinquent county pursuant to the provisions of A.R.S. § 28-1598 shall not be distributed to the delinquent county until the County Engineer has provided the report to the Motor Vehicle Division required by subsection (A).
- D.** The report required by subsection (A) shall be available for inspection by all of the counties. A county may challenge the report made by any other county by filing a challenge in writing with the Assistant Director not later than April 30 of each year. In the case of reports received after April 1 of each year, the challenge must be received by the Assistant Director not later than 30 days after receipt of the report by the Assistant Director. The challenge shall specify the highways and the number of disputed miles being contested.
- E.** If the Assistant Director receives a challenge to a report, the Assistant Director of the Department of Transportation for Transportation Planning Division shall hold a hearing within 60 days upon receipt to resolve the challenge. The burden of proof at the hearing shall be on the county bringing the challenge. The decision of the Assistant Director of the Department of Transportation for Transportation Planning Division concerning the outcome of the challenge shall be final.

Historical Note

Adopted effective October 8, 1987 (Supp. 87-4). Renumbered from R17-4-348 (Supp. 92-4).

R17-1-349. Period of applicability

The estimated percentage of use fuel consumed in each county that is calculated annually pursuant to the provisions of this Article shall be used to calculate the distribution pursuant to A.R.S. § 28-1598 commencing with distributions made after June 30 of that year and shall continue to be used until the next succeeding June 30 or until a new estimated percentage of use fuel consumed in each county is

calculated in accordance with the provisions of this Article, whichever is later.

Historical Note

Adopted effective October 8, 1987 (Supp. 87-4). Renumbered from R17-4-349 (Supp. 92-4).

ARTICLE 4. ELECTRONIC FUNDS TRANSFER

R17-1-401. Definitions

The following definitions apply for purposes of this Article:

1. "Automated clearing house" or "ACH" means a central distribution and settlement point for the electronic clearing of debits and credits between financial institutions.
2. "ACH credit" means an electronic funds transfer:
 - a. Generated by a payer, and
 - b. Cleared through an ACH for deposit to the Department account.
3. "ACH debit" means an electronic transfer of funds from a payer's account:
 - a. Authorized by a payer-signed authorization agreement,
 - b. Generated at a payer's instruction, and
 - c. Cleared through an ACH for deposit to the Department account.
4. "Addendum record" means the information required by the Department in an ACH credit transfer or wire transfer, in the approved electronic format prescribed in R17-1-405(B).
5. "Authorized means of transmission" means the deposit of funds into the Department account by electronic funds transfer.
6. "Cash Concentration or Disbursement plus" or "CCD plus" means the standardized data format approved by the National Automated Clearing House Association for remitting tax payments electronically.
7. "Data Collection Center" means a third party that, under contract with the Department, collects and processes electronic funds transfer payment information from payers.
8. "Department" or "ADOT" means the Arizona Department of Transportation.
9. "EFT Program" means the payment of taxes by electronic funds transfer under this Article.
10. "Electronic Funds Transfer" or "EFT" means any transfer of funds initiated:
 - a. By a person authorizing a financial institution to debit or credit an account under this Article; and
 - b. Through one of the following:
 - i. Electronic terminal,
 - ii. Telephone,
 - iii. Computer, or
 - iv. Magnetic tape.
11. "Financial institution" means:
 - a. A state or national bank,
 - b. A trust company,
 - c. A state or federal savings and loan association,
 - d. A mutual savings bank, or
 - e. A state or federal credit union.
12. "IFTA" means International Fuel Tax Agreement.
13. "IRP" means International Registration Plan.
14. "Payment information" means the data that the Department requires of a payer making an electronic funds transfer payment.
15. "Payer" means a taxpayer or a third party representing a taxpayer.

16. "Payer information number" means a confidential code assigned by the Department that identifies a payer and allows the payer to give payment information to the Department's Data Collection Center.
17. "State Servicing Bank" means a bank designated under A.R.S. Title 35, Chapter 2, Article 2.
18. "Taxpayer verification number" means an optional taxpayer-generated number that a payer may use to verify an ACH credit transaction.
19. "Tax type" means the category of tax imposed by the Department.
20. "Wire transfer" means an instantaneous electronic funds transfer initiated by a payer.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3236, effective July 10, 2002 (Supp. 02-3).

R17-1-402. General Requirements

- A. **Mandatory Participation.** Beginning on the first day of the month at least 120 days after this Section becomes effective, a payer owing motor vehicle or use fuel taxes of \$20,000 or more for the immediately preceding tax year under A.R.S. Title 28, Chapter 16, Article 1 or 2, shall remit payment by a Department-authorized method of EFT under R17-1-404. A payer with remittance requirements under this subsection shall initiate electronic funds transfer by submitting to the Department an EFT authorization agreement in compliance with R17-1-403.
- B. **Voluntary Participation.** Beginning on the first day of the month at least 180 days after this Section becomes effective, the following payers may elect to participate in the EFT Program by submitting to the Department an EFT authorization agreement specified in R17-1-403.
 1. A payer with a recurring fee or tax liability,
 2. An authorized third party,
 3. An IRP or IFTA jurisdiction, and
 4. Other entity or payer determined by the Director.
- C. **Voluntary Discontinuance.** A voluntary participant in the EFT Program shall give written notice to the Department at least 45 days before discontinuing EFT Program participation.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3236, effective July 10, 2002 (Supp. 02-3).

R17-1-403. Authorization Agreement

- A. A payer shall complete an electronic funds transfer authorization agreement in the form prescribed by the Department at least 45 days before initiation of the first applicable transaction. The payer shall provide the following information on the authorization agreement:
 1. Payer's name and address;
 2. Payer's federal tax identification number;
 3. Payer's Arizona Tax Account Number, if applicable;
 4. Type of action being authorized;
 5. Fee or tax type;
 6. Payment method;
 7. Name and phone number of the payer's EFT contact person;
 8. Financial institution name and address;
 9. Bank account type;
 10. Name on bank account;
 11. Bank account number; and
 12. Bank routing transit number.
- B. A payer shall submit a revised authorization agreement to the Department at least 30 days before any change in information required in subsection (A) is made to the agreement.

- C. The Department shall deny authorization for electronic funds transfer if a payer or voluntary payer does not submit the information in subsection (A).

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3236, effective July 10, 2002 (Supp. 02-3).

R17-1-404. Methods of Electronic Funds Transfer

- A. A payer shall authorize remittance by ACH debit for electronic funds transfer unless the Department grants permission to remit by ACH credit.
- B. The Department may authorize remittance by ACH credit for a payer that requests it on an EFT authorization agreement form.
- C. A payer unable to remit by an established payment method may request that the Department accept deposits to the Department account by wire transfer according to the following procedure:
1. A payer shall:
 - a. Contact the Department,
 - b. State the reason preventing timely compliance under either the ACH credit or debit method, and
 - c. Obtain verbal approval for wire transfer of tax payment to the Department account before initiating a transmission.
 2. A payer making a wire transfer shall submit the addendum record required under R17-4-405 with an approved wire transfer.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3236, effective July 10, 2002 (Supp. 02-3).

R17-1-405. Departmental Termination of EFT Agreement

- A. After finding grounds for withdrawal, the Department may:
1. Withdraw permission to use the ACH credit method of EFT, if the payer is an EFT Program participant under R17-1-402(A); or
 2. Withdraw permission to pay by EFT, if the payer is an EFT Program participant under R17-1-402(B).
- B. Each of the following is grounds for withdrawal:
1. Failure to make timely EFT payments,
 2. Failure to provide payment information,
 3. Failure to provide the required addendum record with EFT payment, or
 4. Failure to make correct payment.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3236, effective July 10, 2002 (Supp. 02-3).

R17-1-406. Payment Procedures

- A. A payer remitting by the ACH debit method shall report payment information to the Department Data Collection Center no later than the time prescribed by the State Servicing Bank on the last business day before the payment due date.
1. A payer shall communicate payment information by one of the following means:
 - a. Operator-assisted communication of payment information made orally by rotary or touch-tone telephone,
 - b. Touch-tone communication of payment information made by using a touch-tone telephone keypad,
 - c. Computer terminal link with the Data Collection Center, or
 - d. Other means available and approved by the Data Collection Center.
 2. A payer shall communicate the following payment information to the Department Data Collection Center:

- a. Payer information number,
- b. Department-assigned account number,
- c. Tax type,
- d. Payment amount,
- e. Tax period,
- f. Payment due date, and
- g. Payment sequence number.

- B. A payer authorized to remit by the ACH credit method shall initiate a payment transaction directly with a financial institution to ensure a payment is deposited to the Department account by the payment due date. A payer shall make an ACH credit transfer in the CCD plus addendum format by providing the following information:
1. The Department-assigned account number,
 2. The tax type,
 3. The payment amount,
 4. The tax or reporting period,
 5. The payment sequence number,
 6. The payer's taxpayer verification number provided optionally at the payer's discretion, and
 7. The American Bank Association nine-digit number of the receiving bank.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3236, effective July 10, 2002 (Supp. 02-3).

R17-1-407. Timely Payment

- A. A payer remitting a payment through EFT shall ensure the completion of each transaction by the payment due date.
- B. If a tax due date occurs on a Saturday, Sunday, or legal holiday, a payer shall make the electronic funds transfer by 5:00 p.m. of the next business day.
- C. An EFT program participant is subject to penalty prescribed under A.R.S. §§ 28-5621, 28-5721, or 28-5722 for past due payment.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3236, effective July 10, 2002 (Supp. 02-3).

ARTICLE 5. ADMINISTRATIVE HEARINGS

R17-1-501. Definitions

In this Article, unless a statute or specific rule otherwise requires:

1. "Administrative hearing" means a scheduled executive hearing office proceeding for deciding a dispute based on the evidence presented to an administrative law judge. An administrative hearing includes:
 - a. Advance notice to participants of record,
 - b. An opportunity for witnesses to testify under oath, and
 - c. Presentation of documentary evidence.
2. "Administrative law judge" means a person who conducts a summary review or presides at an administrative hearing, with the powers listed in R17-1-504(A) and R17-1-504(B).
3. "Affidavit" means a declaration or statement of facts made:
 - a. In writing, and
 - b. Under oath or affirmation.
4. "Agency action" means an action affecting a license, permit, certificate, approval, registration, or other permission issued by the Arizona Department of Transportation or the Division.
5. "Business day" means a day other than a Saturday, Sunday, or state holiday.
6. "Deposition" means a witness' testimony:

- a. Given under oath or affirmation,
- b. Brought out by another person's oral or written questions, and
- c. Reduced to writing for a proceeding.
- 7. "Director" means the Arizona Department of Transportation, Motor Vehicle Division Director.
- 8. "Division" means the Arizona Department of Transportation, Motor Vehicle Division.
- 9. "Executive hearing office" means the branch of the Director's office that conducts an administrative hearing or a summary review.
- 10. "In writing" means:
 - a. An original document,
 - b. A photocopy,
 - c. A facsimile, or
 - d. An electronic mail message.
- 11. "Motion" means a written or oral proposal for consideration and action filed by a person with the executive hearing office.
- 12. "Participant of record" means:
 - a. A petitioner or a respondent;
 - b. An attorney representing a petitioner, a respondent, or a person or entity under subsection (12)(c); and
 - c. A person or entity with an interest in the subject matter of an administrative hearing as determined from Division records or from Arizona Department of Transportation records.
- 13. "Petitioner" means a person or entity that requests an administrative hearing or a summary review from the executive hearing office.
- 14. "Respondent" means a person against whom relief is sought in an executive hearing office proceeding.
- 15. "Summary review" means an executive hearing office proceeding, other than an administrative hearing, conducted under A.R.S. § 28-1385(L).
- 16. "Under oath or affirmation" means a witness' sworn statement made to a person with the power to administer an oath or affirmation.

Historical Note

New Section recodified from R17-4-901 at 7 A.A.R. 3477, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 7 A.A.R. 4133, effective September 13, 2001 (Supp. 01-3).

R17-1-502. Request for Hearing

- A. A petitioner or petitioner's attorney shall file a request for a hearing:
 - 1. By mail or hand delivery to the executive hearing office's street address:
Executive Hearing Office, Arizona Department of Transportation, Motor Vehicle Division, 3737 N. 7th Street, Suite 160, Phoenix, AZ 85014-5017;
 - 2. By fax to (602) 241-1624; or
 - 3. By e-mail to the executive hearing office's electronic mail address: HEARINGOFFICE@dot.state.az.us.
 - 4. Timeliness of filing is determined as of the date the executive hearing office receives a hearing request.
- B. If a statute does not provide a period to request a hearing, the period lasts for 15 days after the date of an agency action notice.
- C. A request for a hearing shall include the petitioner's name and mailing address.

Historical Note

New Section recodified from R17-4-902 at 7 A.A.R. 3477, effective July 20, 2001 (Supp. 01-3). Amended by

final rulemaking at 7 A.A.R. 4133, effective September 13, 2001 (Supp. 01-3).

R17-1-503. Notice of Hearing

- A. If a petitioner timely files a request for a hearing under R17-1-502, the executive hearing office shall send a notice of hearing to the petitioner's mailing address in the request for hearing and to any other participant of record.
- B. The notice of hearing shall state the:
 - 1. Time, date, and place of the administrative hearing,
 - 2. Type of administrative hearing, and
 - 3. Statutory authority for the administrative hearing.

Historical Note

New Section recodified from R17-4-903 at 7 A.A.R. 3477, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 7 A.A.R. 4133, effective September 13, 2001 (Supp. 01-3).

R17-1-504. Administrative Hearing Procedure

- A. An administrative law judge shall preside at an administrative hearing and shall:
 - 1. Administer oaths or affirmations;
 - 2. Conduct fair and impartial hearings;
 - 3. Have the parties state orally at the hearing their positions on the issues;
 - 4. Rule on motions filed according to R17-1-507;
 - 5. Maintain an administrative hearing record; and
 - 6. Issue a written decision, including findings of fact and conclusions of law, based on the record.
- B. In addition to the requirements of subsection (A), an administrative law judge may:
 - 1. Issue a subpoena for the attendance of witnesses or for the production of documents or things, or
 - 2. Question a witness.
- C. An administrative law judge may order summary suspension of a license according to A.R.S. § 41-1064(C).
- D. An administrative law judge shall sustain an agency action supported by the record and the law.
- E. A.R.S. § 41-1063 applies to the contents and service of an administrative hearing decision.

Historical Note

New Section recodified from R17-4-904 at 7 A.A.R. 3477, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 7 A.A.R. 4133, effective September 13, 2001 (Supp. 01-3).

R17-1-505. Administrative Hearing Evidence

- A. A.R.S. §§ 41-1062(A)(1) through 41-1062(A)(3) apply to evidence offered in an administrative hearing.
- B. If a witness cannot be subpoenaed or is unable to attend an administrative hearing, the administrative law judge may admit the witness' deposition or affidavit and determine its evidentiary weight. The party taking a witness' deposition or affidavit shall bear all deposition-related or affidavit-related costs.

Historical Note

New Section recodified from R17-4-905 at 7 A.A.R. 3477, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 7 A.A.R. 4133, effective September 13, 2001 (Supp. 01-3).

R17-1-506. Time Computation

In computing a time period under this Article, the executive hearing office shall:

- 1. Exclude the day of the act triggering the period;

2. If the last day is a Saturday, Sunday, or legal holiday, extend the period to the end of the next business day;
3. If the period is 10 days or less, count only the business days; and
4. If service is by mail, extend the period by five days.

Historical Note

New Section recodified from R17-4-906 at 7 A.A.R. 3477, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 7 A.A.R. 4133, effective September 13, 2001 (Supp. 01-3).

R17-1-507. Motion Practice

- A.** A party or a party's attorney making a motion shall state in the motion the relief sought, the factual basis, and the legal authority for the requested relief.
1. For a pre-hearing motion, a party or a party's attorney shall:
 - a. Make the motion in writing, and
 - b. File the motion with the executive hearing office at least five days before the administrative hearing.
 2. For a motion made at an administrative hearing:
 - a. A party or a party's attorney may make the motion orally, and
 - b. The administrative law judge may require the party or the party's attorney to file the motion in writing.
- B.** An administrative law judge may include a ruling on a motion in an administrative hearing decision.

Historical Note

New Section recodified from R17-4-907 at 7 A.A.R. 3477, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 7 A.A.R. 4133, effective September 13, 2001 (Supp. 01-3).

R17-1-508. Subpoena Issuance

- A.** In connection with an administrative hearing, an administrative law judge may issue a subpoena to compel the attendance of a witness or the production of documents or things.
1. A party or a party's attorney requesting a subpoena shall file a written subpoena request, briefly stating the substance of the evidence sought.
 2. An administrative law judge has discretion to issue or deny a subpoena based on the:
 - a. Relevance of the evidence sought, or
 - b. Reasonable need for the evidence sought.
- B.** A party or a party's attorney requesting a subpoena shall:
1. Draft the subpoena in the correct format, including:
 - a. The caption and docket number of the matter;
 - b. A list of documents or things to be produced;
 - c. The full name and address of:
 - i. The custodian of the documents or things listed, or
 - ii. The person ordered to appear;
 - d. The time, date, and place to appear or to produce documents or things; and
 - e. The name, address, and telephone number of the party or the party's attorney requesting the subpoena;
 2. Obtain an administrative law judge's signature on the subpoena,
 3. Ensure service of the subpoena on the person named in the subpoena, and
 4. Bear all subpoena-related costs.
- C.** Unless otherwise provided by statute or administrative rule, a party or a party's attorney requesting a subpoena shall have the subpoena served by a person who:

1. Is at least age 18 and is not a party to the administrative hearing;
 2. Delivers, within Arizona, a copy of the subpoena to the person named in the subpoena;
 3. If the subpoena requires the named person's attendance at an administrative hearing, hands the named person the amount prescribed in A.R.S. § 12-303 as the witness fee for one day's attendance and allowed mileage; and
 4. Files with the executive hearing office a proof of service, signed by the person who served the subpoena, certifying:
 - a. The date of service,
 - b. The manner of service, and
 - c. The name of the person served.
- D.** A party or a person served with a subpoena who objects to the subpoena or a portion of the subpoena, may file an objection in writing with the executive hearing office. The party or person served with the subpoena shall:
1. State in the objection the reasons for objecting; and
 2. File the objection:
 - a. Within five days after service of the subpoena; or
 - b. If the subpoena is served less than five days before an administrative hearing, at the start of the hearing.
- E.** An administrative law judge may quash or modify a subpoena if:
1. The subpoena is unreasonable or imposes an undue burden, or
 2. The evidence sought may be obtained by another method.
- F.** Unless otherwise provided by statute or administrative rule, a party or a party's attorney requesting a subpoena or the Arizona Department of Transportation shall enforce the subpoena in the Superior Court of Arizona, in the county where the administrative hearing is held.

Historical Note

New Section recodified from R17-4-908 at 7 A.A.R. 3477, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 7 A.A.R. 4133, effective September 13, 2001 (Supp. 01-3).

R17-1-509. Document Filing

- A.** A document filed in an executive hearing office proceeding shall state:
1. The description and title of the proceeding,
 2. The name of the party filing the document,
 3. The date the document is signed,
 4. The title and address of the document's signer, and
 5. If applicable, the attorney's name, law firm, address, and telephone number.
- B.** A party or a party's attorney shall sign a document filed with the executive hearing office. By signing, the signer certifies that:
1. The signer read the document;
 2. The document is supported by the facts and the law or by a good faith argument to extend, modify, or reverse the law; and
 3. The document is not filed to harass, delay, or needlessly increase the cost of the executive hearing office proceeding.
- C.** A document is filed as of the date the executive hearing office receives the document.

Historical Note

New Section recodified from R17-4-909 at 7 A.A.R. 3477, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 7 A.A.R. 4133, effective September 13, 2001 (Supp. 01-3).

R17-1-510. Continuing an Administrative Hearing

- A. An administrative hearing participant of record requesting a continuance shall file the request at least seven business days before the hearing. The continuance request shall state a reason for continuing the administrative hearing.
- B. An administrative law judge shall not grant a continuance unless the participant of record establishes good cause for the continuance. For an untimely request, the administrative law judge shall not grant the request unless the participant of record establishes good cause for the delay in filing the request.
- C. An administrative law judge shall include in the record the reason for denying a continuance.

Historical Note

New Section recodified from R17-4-913 at 7 A.A.R. 3477, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 7 A.A.R. 4133, effective September 13, 2001 (Supp. 01-3).

R17-1-511. Rehearing and Judicial Review

- A. A party may file a written motion for rehearing with the executive hearing office, stating in detail the reasons a rehearing should be granted. Unless otherwise provided by statute, a motion for rehearing is timely if received by the executive hearing office within:
 - 1. Fifteen days after the date of in-person service of the administrative hearing decision, or
 - 2. Fifteen days after the mailing date of the administrative hearing decision.
- B. A timely motion for rehearing stays an agency action, other than:
 - 1. A summary suspension under A.R.S. § 41-1064(C), or
 - 2. An agency action sustained under subsection (I).
- C. An administrative law judge may grant a rehearing for any of the following reasons materially affecting a party's rights:
 - 1. Irregularity in the proceedings of the Arizona Department of Transportation or the Division, or any order or abuse of discretion, that deprived the moving party of a fair hearing;
 - 2. Misconduct of the Arizona Department of Transportation or the Division, its staff, an administrative law judge, or the prevailing party;
 - 3. Accident or surprise that could not have been prevented by ordinary prudence;
 - 4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
 - 5. Excessive penalty;
 - 6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the proceedings;
 - 7. That the administrative hearing decision is a result of passion or prejudice; or
 - 8. That the findings of fact or decision is not justified by the evidence or is contrary to law.
- D. An administrative law judge may affirm or modify an administrative hearing decision or grant a rehearing to all or any of the parties on all or part of the issues for any of the reasons in subsection (C). An order modifying an administrative hearing decision or granting a rehearing shall specify with particularity the grounds for the order.
- E. In spite of any motion for rehearing, an administrative law judge may order a rehearing for a reason listed in subsection (C).
- F. An administrative law judge may require the filing of written briefs on the issues raised in a motion for rehearing.

- G. When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may, within 15 days after service, serve opposing affidavits. An administrative law judge may extend this period for a maximum of 20 days for good cause as described in subsection (H) or by written stipulation of the parties. Reply affidavits may be permitted at the discretion of the administrative law judge.
- H. An administrative law judge may extend the time limits in subsections (A) and (G) upon a showing of good cause. A party demonstrates good cause by showing that the grounds for the party's motion or other action could not have known in time, using reasonable diligence, and a ruling on the motion will:
 - 1. Further administrative convenience, expedition, or economy; or
 - 2. Avoid undue prejudice to any party.
- I. An administrative law judge shall issue an administrative hearing decision as a final decision without an opportunity for a rehearing if the administrative law judge makes specific findings that:
 - 1. The public health, safety, and welfare require immediate effectiveness of the administrative hearing decision; and
 - 2. A rehearing of the decision is impractical, unnecessary, or contrary to the public interest.
- J. A party may appeal or request judicial review of a final administrative hearing decision in the Superior Court of Arizona as provided by statute.

Historical Note

New Section recodified from R17-4-911 at 7 A.A.R. 3477, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 7 A.A.R. 4133, effective September 13, 2001 (Supp. 01-3).

R17-1-512. Summary Review of an Administrative Suspension Order under A.R.S. § 28-1385

- A. A petitioner issued a driving privilege suspension order under A.R.S. § 28-1385, may request summary review instead of a hearing.
 - 1. The requirements of R17-1-502 apply to a summary review request.
 - 2. The petitioner or the petitioner's attorney may include with the summary review request a written statement of:
 - a. The reasons why the Division should not suspend the petitioner's driving privilege, and
 - b. Evidence that at least one issue in subsections (C)(1) through (C)(3) is not met.
- B. An administrative law judge conducting summary review of a suspension order under A.R.S. § 28-1385 shall:
 - 1. Conduct the summary review without the petitioner's presence,
 - 2. Examine the documents in the executive hearing office case file, and
 - 3. Issue a written summary review decision sustaining or voiding the suspension order.
- C. An administrative law judge conducting summary review of a suspension order under A.R.S. § 28-1385 shall consider the following factors:
 - 1. Whether the law enforcement officer's certified report reflects the officer had reasonable grounds to believe the petitioner was driving or in actual physical control of a motor vehicle while under the influence of intoxicating liquor;
 - 2. Whether the law enforcement officer's certified report reflects the officer placed the petitioner under arrest for a violation of A.R.S. §§ 4-244(33), 28-1381, 28-1382, or 28-1383, and the petitioner complied with A.R.S. § 28-1321;

3. Whether the law enforcement officer's certified report reflects petitioner's test results indicating at least the applicable alcohol concentration stated in A.R.S. § 28-1385; and
4. Whether the petitioner's written statement of the reasons why the Division should not suspend the petitioner's driving privilege provides convincing evidence that at least one issue in subsections (C)(1) through (C)(3) was not met.

Historical Note

New Section recodified from R17-4-912 at 7 A.A.R. 3477, effective July 20, 2001 (Supp. 01-3). Amended by

final rulemaking at 7 A.A.R. 4133, effective September 13, 2001 (Supp. 01-3).

R17-1-513. Maintaining Administrative Hearing Decorum

A person shall not interfere with access to or from a hearing room, or interfere, or threaten interference with a hearing. If a person interferes, threatens interference, or disrupts a hearing, the administrative law judge may order the disruptive person to leave or be removed.

Historical Note

New Section recodified from R17-4-910 at 7 A.A.R. 3477, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 7 A.A.R. 4133, effective September 13, 2001 (Supp. 01-3).